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Guardian Ad Litem for Petitioner Jon Scott Dunkle

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JON SCOTT DUNKLE,
Petitioner,

vs.

EDDIE YLST, Acting
Warden of California State
Prison at San Quentin,
Respondent

Case No: **C 06 4115**

DEATH PENALTY CASE

Application by Guardian Ad Litem
To File Request for Appointment
of Counsel on Behalf of
Incompetent Petitioner

FILED
06 JUN 30 PM 3:35
RICHARD W. WHELAN
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

I, Conrad Petermann, guardian ad litem for Jon Scott Dunkle, respectfully request that this Court grant permission to me to file, on Mr. Dunkle's behalf, a request for appointment of counsel and stay of execution of Mr. Dunkle's death sentence. In support of this application, I declare under penalty of perjury:

1. Mr. Dunkle was convicted and sentenced to death on February 7, 1990. (*People v. Dunkle*, San Mateo County Superior Court, State of California, Criminal Case number C-17651-01.)

He is incarcerated at San Quentin Prison, San Quentin, California.

2. On January 27, 1993, I was appointed by the California Supreme Court to represent Mr. Dunkle in his state direct appeal and accompanying habeas corpus proceeding. (*People v. Dunkle*, California Supreme Court, Case number S014200.)

3. On April 11, 1996, I filed an ex parte motion for appointment as guardian ad litem for Mr. Dunkle. On December 11, 1996, the California Supreme Court ordered a reference hearing on the question is "Defendant Jon Scott Dunkle presently unable, as a result of mental disorder, to understand the nature of defense counsel's attempts to investigate grounds for the filing of a writ of habeas corpus or to assist counsel in that investigation." After taking testimony, the Referee ultimately issued her Findings and Recommendation on March 10, 2000. She found that Mr. Dunkle has a chronic mental disorder; is currently under psychiatric care; receives anti-psychotic medications; and is unable to assist counsel and understand the nature of counsel's attempts to investigate the ground for the filing of the habeas corpus petition or to assist counsel in that investigation.

4. On July 24, 2002, the California Supreme Court granted the motion for appointment of a guardian ad litem and appointed me as the guardian "for the limited purpose of preparing and pursuing defendant's habeas corpus petition."

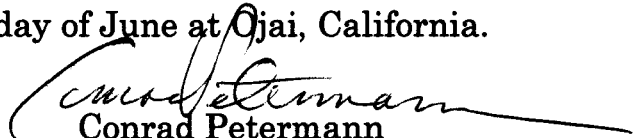
5. On October 21, 2003, I filed on Mr. Dunkle's behalf a petition for writ of habeas corpus in the California Supreme Court. (*In re Dunkle*, S119946.) That petition is pending.

6. Mr. Dunkle's conviction and death sentence were affirmed on direct appeal by the California Supreme Court on August 4, 2005. (*People v. Dunkle*, S014200.) A petition for writ of certiorari was filed in his behalf in the United States Supreme Court. (Supreme Court No. 05-9313.) At the request of the United States Supreme Court, my cocounsel and I filed a motion seeking the court's permission to file the cert. petition *in forma pauperis* without an affidavit of indigency from Mr. Dunkle. In that motion, we explained that Mr. Dunkle does not have funds to retain counsel, that he was found incompetent by the California state courts during the pendency of his appeal, and that the California Supreme Court had appointed me his guardian ad litem in his state habeas corpus proceeding. The United States Supreme Court granted our motion and accepted the cert. petition as a filing *in forma pauperis*.

7. To date, Mr. Dunkle's condition has further deteriorated, and he remains unable to assist counsel or to prepare or participate in any meaningful way in the preparation or filing of a request in this court for appointment of counsel and for a stay of the execution of his death sentence.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of June at Ojai, California.


Conrad Petermann
Guardian ad Litem for Jon Scott Dunkle

CONRAD PETERMANN CASE NUMBER:
323 East Matilija Street
Suite 110, PMB 142
Ojai, CA 93023

DECLARATION OF SERVICE

I, the undersigned, say: I am a citizen of the United States, a resident of Ventura County, over 18 years of age, not a party to this action and with the above business address. On the date executed below, I served the *Application by Guardian Ad Litem to File Request for Appointment of Counsel on Behalf of Incompetent Petitioner* by depositing a copy thereof in a sealed envelope, postage thereon fully prepaid, in the United States Mail at Ojai, California. Said copies were addressed as follows:

Department of Justice
Attorney General's Office
Attn: René A. Chacón
Suite 11000
455 Golden Gate Avenue
San Francisco, CA 94102-3664

California Appellate Project
101 Second Street
Suite 600
San Francisco, CA 94105

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 28, 2006, at Ojai, California.



Conrad Petermann